

AUDIT COMMITTEE

Tuesday 9 November 1999
(*Afternoon*)

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AUDIT COMMITTEE

7th Meeting

CONVENER:

*Mr Andrew Welsh (Angus) (SNP)

COMMITTEE MEMBERS:

*Brian Adam (North-East Scotland) (SNP)
*Scott Barrie (Dunfermline West) (Lab)
*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
*Miss Annabel Goldie (West of Scotland) (Con)
*Margaret Jamieson (Kilmarnock and Loudoun) (Lab)
*Mr Nick Johnston (Mid Scotland and Fife) (Con)
*Lewis Macdonald (Aberdeen Central) (Lab)
*Paul Martin (Glasgow Springburn) (Lab)
*Euan Robson (Roxburgh and Berwickshire) (LD)
Andrew Wilson (Central Scotland) (SNP)

*attended

THE FOLLOWING MEMBERS ALSO ATTENDED:

Mr Kenny MacAskill (Lothians) (SNP)
Mr Jack McConnell (Minister for Finance)

COMMITTEE CLERK:

Sarah Davidson

SENIOR ASSISTANT CLERK:

Shelagh McKinlay

ASSISTANT CLERK:

Alastair Macfie

Scottish Parliament

Audit Committee

Tuesday 9 November 1999

(Afternoon)

[THE CONVENER *opened the meeting at 14:01*]

Public Finance and Accountability (Scotland) Bill: Stage 2

The Convener (Mr Andrew Welsh): I bring the committee to order and welcome everybody to this meeting about part 2 of the Public Finance and Accountability (Scotland) Bill.

I have received apologies from Andrew Wilson.

I welcome the Minister for Finance, Jack McConnell, and his officials.

Do members have copies of the marshalled list of amendments and my suggested groupings of amendments? The clerks will ensure that copies are available.

Thus heavily armed, we can continue. The guidance on considering bills at stage 2 has been circulated to members. The convener of the Finance Committee read it out last week; I assume that everybody has read it and suggest that it is not necessary to read it out in full again. However, I would like to alert the committee to some key procedures.

For the purposes of debate, amendments may be grouped with other amendments regardless of where they appear in the marshalled list. Each amendment is debated only once. However, amendments will be called and moved in the order in which they appear on the marshalled list. When a group of amendments is being debated, the proposers of all other amendments in the group will be called to speak. They must not move their amendments at that point—they will get their chance at the end. The only member to move their amendment should be the proposer of the first amendment in the group. I suggest that the proposer of the first amendment move it at the beginning—amendments can be moved at the beginning or the end, but if members get it over with at the beginning, they will not need to be reminded to move their amendments. After each section and schedule has been considered, members must decide whether to agree to that section or schedule.

As there has been no decision of the Parliament on the order of consideration, I propose that the

order in which we consider the sections and schedules of part 2 of the bill should be the normal order—we will take the sections in the order in which they appear in the bill, with any amendments that relate to a schedule being taken after we have considered the section that introduces that schedule. Is that agreed to?

Members *indicated agreement.*

Section 10

AUDIT SCOTLAND

Brian Adam (North-East Scotland) (SNP): I move amendment 16—that gets that bit out of the way.

The intention of amendment 16 is simply—as it appears in the marshalled list—to beef up the bill to put the onus on Audit Scotland to be proactive in research into and development of performance measurement. The Accounts Commission has been particularly proactive in relation to local government. I would like to see a legal basis for that.

The Minister for Finance (Mr Jack McConnell): Section 10(3) already provides that Audit Scotland

“is to provide such assistance and support as the Auditor General and the Accounts Commission require in the exercise of their respective functions”.

That provision is sufficiently wide-ranging to cover not only the services suggested in the amendment but any support function that might materialise in future. The bill allows for the Auditor General and the Accounts Commission to commission research from Audit Scotland for developing processes for performance measurement. By introducing a specific requirement, the amendment does not add to the provisions of the bill but it might cause confusion. Nothing in the provisions would preclude the activity suggested by the amendment, so the amendment is unnecessary.

The amendment could also give rise at least to an expectation that the Accounts Commission or the Auditor General would comment on policy as opposed to performance. Performance measurement can mean a variety of things. The bill allows for research into performance measurement for systems in local authorities or Government bodies, which is the right context. I hope that, with that assurance, Mr Adam will withdraw the amendment.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I agree that the bill makes the necessary provision. We would expect the Accounts Commission and the Auditor General’s department to work together to provide research or whatever is needed to ensure that Scottish finances are managed effectively. As the minister said, there is

nothing in the bill to prevent that from happening and we do not need to legislate to ensure that it does.

Miss Annabel Goldie (West of Scotland) (Con): Minister, given the phrasing of section 10(3), would you anticipate the Accounts Commission or the Auditor General ever making a request that Audit Scotland could reasonably not comply with?

The Convener: I remind members that this is not a question and answer session. If questions are posed in a speech, I am sure the minister will want to respond to them. Annabel, you have asked a question. If you wish to continue your speech, you are welcome to do so.

Miss Goldie: That was my speech.

The Convener: Excellently succinct.

Mr McConnell: The bill provides for both the Auditor General and the Accounts Commission to have support from Audit Scotland for any of their functions and I am confident that that will be the case in all respects.

Brian Adam: I am disappointed by the minister's response. The bill does not preclude what I want to happen, but I want it actually to happen—I do not want us perhaps only to think about commissioning research. I do not believe that the amendment would mean that Audit Scotland would encroach on policy areas.

If this Parliament is to be at the cutting edge of best practice, we must encourage Audit Scotland and the Accounts Commission to be at the cutting edge of best practice. The way in which to do that is to insist that it happens, which is the purpose of this amendment. I am not suggesting that those organisations should devote all their resources to researching and developing processes for performance measurement, but I am not persuaded by the minister to withdraw amendment 16.

The Convener: The question is, that amendment 16 be agreed to. Are we agreed?

Members: No.

The Convener: In that case, there will be a division.

FOR

Brian Adam (North-East Scotland) (SNP)
Miss Annabel Goldie (West of Scotland) (Con)
Mr Nick Johnston (Mid Scotland and Fife) (Con)

AGAINST

Scott Barrie (Dunfermline West) (Lab)
Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
Margaret Jamieson (Kilmarnock and Loudoun) (Lab)
Lewis Macdonald (Aberdeen Central) (Lab)
Paul Martin (Glasgow Springburn) (Lab)
Euan Robson (Roxburgh and Berwickshire) (LD)

ABSTENTIONS

Mr Andrew Welsh (Angus) (SNP)

The Convener: The result of the division is as follows: For 3, Against 6, Abstentions 1.

Amendment 16 disagreed to.

The Convener: We now come to amendment 23, with which we are discussing amendments 25 to 31.

Mr McConnell: I move amendment 23.

The amendments are all technical. Amendment 23 proposes a change to the provisions that set out Audit Scotland's powers to undertake work for bodies other than the Auditor General and the Accounts Commission. Under the bill as drafted, Audit Scotland would have been able to provide support services to other public audit bodies, such as the National Audit Office. It is now clear that Audit Scotland should be able to provide audit services to the public sector in general, not just to public auditors, and the amendment provides for that. In the past, the NAO for Scotland has undertaken work for the European Commission; the main reason why the amendment is required is so that Audit Scotland can take up that work in future.

Amendments 25 to 31 are intended to enable Audit Scotland to recover the costs of work connected with the Accounts Commission's statutory duties under the Local Government Act 1992. Under section 1 of that act, the Accounts Commission issues directions concerning the publication of performance indicators by local authorities and other bodies. The existing arrangements allow the commission to recover the costs of producing those directions from the bodies that are affected. The bill, as drafted, does not enable Audit Scotland to recover the costs of directions. The amendments rectify that situation.

Amendment 23 agreed to.

Section 10, as amended, agreed to.

Schedule 2

AUDIT SCOTLAND: FURTHER PROVISIONS

The Convener: We now come to amendment 24.

Mr McConnell: I move amendment 24.

The amendment is a minor, technical amendment. The intention is to ensure that no member of the Accounts Commission may use a transfer to Audit Scotland under the bill as a ground for redundancy. The original draft failed to take into account regulations created under the terms of the Superannuation Act 1972 and the bill, as drafted, might enable an employee to pursue a redundancy claim based on those regulations. The

amendment simply closes that loophole—it was drafted to carry out the original intention of the bill.

Amendment 24 agreed to.

Schedule 2, as amended, agreed to.

Section 11

AUDIT SCOTLAND: FINANCIAL PROVISIONS

The Convener: We now come to amendments 25 to 31, which have been debated. I ask the minister to move amendment 25.

14:15

Mr McConnell: I move amendment 25.

Amendment 25 agreed to.

Mr McConnell: I move amendment 26.

Amendment 26 agreed to.

Mr McConnell: I move amendment 27.

Amendment 27 agreed to.

Mr McConnell: I move amendment 28.

Amendment 28 agreed to.

Mr McConnell: I move amendment 29.

Amendment 29 agreed to.

Mr McConnell: I move amendment 30.

Amendment 30 agreed to.

Mr McConnell: I move amendment 31.

Amendment 31 agreed to.

The Convener: We come to amendment 32, with which we are discussing amendment 33.

Mr McConnell: I move amendment 32.

We have spent some time considering the appointment of an accountable officer for Audit Scotland. We have concluded that the Scottish Commission for Public Audit should have the option of appointing the Auditor General or a member of Audit Scotland's staff as accountable officer. The amendment provides for that.

We have also concluded that the accountable officer should report any instructions under section 17(4)(b) to a body external to Audit Scotland. We have decided that any reports should be made to the auditors of Audit Scotland. Because of the latter point, the previous strategy of applying section 17 no longer works very well—amendment 33 inserts a free-standing section that sets out the provisions for the accountable officer for Scotland.

The amendments are good as they mean that the accountable officer for Audit Scotland will be directly answerable to Parliament, which, given the principles that underlie the bill, is only right and

proper.

Amendment 32 agreed to.

Section 11, as amended, agreed to

Section 12 agreed to.

Schedule 3 agreed to.

Section 13

AUDITOR GENERAL FOR SCOTLAND

The Convener: We come to amendment 41, with which we will be discussing amendments 42, 43 and 44.

Mr McConnell: I move amendment 41.

Amendment 41 has been proposed by the Scottish Parliamentary Corporate Body to simplify arrangements for determining the remuneration of the Auditor General, making that the responsibility of the SPCB rather than the Parliament. The Executive supports the amendment.

Amendment 42 makes provision to enable the Auditor General to resign and retire. Without the amendment, the holder of the office might have to hold the position for life, unless removed under section 69 of the Scotland Act 1998. I can think of someone in the room who might be unhappy with that option, given the fact that he enjoys painting in Callander. [*Laughter.*] The amendment also enables the SPCB to determine other terms and conditions of the appointment, such as holiday or sick pay entitlement. That provision is sought at the request of the SPCB.

Amendment 43 seeks to enable the Auditor General to authorise someone to exercise the functions that otherwise fall to him or her personally, but only in situations where he or she is incapable of exercising those functions, perhaps for medical reasons. Without that provision, no one else could exercise the relevant functions during any temporary incapacity. That could seriously impede the effective operation of the public audit service.

Amendment 44 provides for the filling of any temporary vacancy in the office of Auditor General and for the terms and conditions, including salary, of such an appointment to be determined by the SPCB and for any sums payable to be paid by Audit Scotland.

I commend the amendments to the committee.

The Convener: Having noticed that officials in the European Union have been offered jobs for life, I am happy to note that that trap is being avoided. Does any member of the committee wish to speak on this?

Brian Adam: This is an extremely sensible series of amendments. In his summing up, would

the minister comment on what would happen in a situation in which someone is totally incapacitated and unable to delegate? Do the amendments allow for that? There might be unusual circumstances in which—following an accident or whatever—a person has some prospect of recovery but is unable to delegate.

The Convener: Thank you for phrasing that question as a speech. I am sure that the minister will respond to it when he sums up.

Mr McConnell: I imagine that a good Auditor General for Scotland would have permanent notification of who should be exercising the functions in his or her absence. The expectation would be not to require that in legislation, but that the Auditor General—in consultation with the appropriate bodies—would make that provision. If that were the case, any unexpected incapacity would be covered.

Amendment 41 agreed to.

Mr McConnell: I move amendment 42.

Amendment 42 agreed to.

Mr McConnell: I move amendment 43.

Amendment 43 agreed to.

Mr McConnell: I move amendment 44.

Amendment 44 agreed to.

Section 13, as amended, agreed to.

Sections 14 to 17 agreed to.

After Section 17

Mr McConnell: I move amendment 33.

Amendment 33 agreed to.

Section 18

DUTY TO PREPARE ACCOUNTS

The Convener: We come to amendment 17, with which we will discuss amendments 18, 37 and 38.

Brian Adam: I move amendment 17.

The purpose of the amendment is to give guidance as to how far down we would expect to see the accounts. It is difficult to be prescriptive about this, but perhaps we need to be. I suggest that we disaggregate the accounts to at least sub-programme level. All sorts of phrases could be used—how do we define this kind of thing? I do not want to say any more on that and I will be interested in the minister's response.

The Convener: Thank you. Do you also wish to speak to amendment 18?

Brian Adam: Yes. I am looking for details of the

accounts to be placed before the appropriate committee on a monthly basis and to be given in reasonable detail. I have asked for those accounts to be placed soon after they are available, to ensure that they are meaningful.

I am investigating whether there will be significant variation from the expenditure that was initially planned, and I have tried to give guidance as to what might be regarded as a significant variation. That is why amendment 18 states:

"Each monthly statement shall show the projected annual out-turn against budget on each sub-head, and shall explain variations of 5 per cent or £100,000 whichever is greater."

The point of such amendments is to ensure that clear and detailed accounts are available to the committees of the Parliament so that they can effectively monitor and scrutinise the Administration.

Mr McConnell: Amendment 37 is a technical amendment that is designed to update the provisions of the National Health Service (Scotland) Act 1978. The act places a duty on the Scottish ministers to produce summarised accounts of various NHS bodies. We are no longer certain that all those accounts serve a useful purpose, as the provision—in some cases—duplicates the duty of the health bodies that produce accounts. We therefore propose to replace the duty with a power. The amendment provides for that.

As part of the resource accounting initiative, we intend to consolidate the accounts of health boards with those of the Executive. In resource accounting jargon, health boards will be inside the boundary. To ensure that, we will need consolidated, not summarised, accounts of the health boards. We need the flexibility to produce summarised or consolidated accounts as they are required. I would like to make it clear that the amendment in no way affects the duty of individual health boards to produce accounts and have them audited by the Auditor General.

Amendment 38, as members will be aware, relates to the Water Industry Commissioner for Scotland, an office established under the Water Industry Act 1999. That individual will provide a much more effective regulation of the water industry in Scotland than was possible when the role was assigned to the Scottish Water and Sewerage Customers Council, which had limited powers and resources. The act does not, however, make provision for the production of accounts by the commissioner or for their audit. This amendment does. In accordance with the public audit model, the Auditor General will be responsible for auditing the commissioner.

Amendment 17 is an understandable attempt to

set out in statute the form of accounts that the Executive and other directly funded bodies should prepare. Mr Adam suggested that statute should require accounts that were disaggregated at least to sub-programme level. I do not view that as an issue for the bill. Parliament should have input into the form of accounts that the Executive and others produce, which is why we have proposed the memorandum of understanding on the form of accounts and the powers of direction. The memorandum proposes that the Executive consult Parliament on any new direction as it is made, or on an existing direction as it is amended.

Once the committee has fully considered those agreements, I shall discuss with the convener proposals for refining them. When they are finalised, the agreements will set out the process by which the Executive will consult Parliament on directions. I make it clear that I intend the final agreement to include what we would describe as sub-programme level. However, that should be in the agreement, rather than in the legislation. One reason for that is that there is a technical difficulty: the term sub-programme, or any similar term, is not sufficiently capable of definition to make the provision enforceable in any meaningful way.

A sensible level of disaggregation will vary from programme to programme. The local government programme, even at sub-programme level, accounts for several billion pounds. Other programmes, even at programme level, remain within single figures of millions of pounds. It is sensible to have a developing process, through which we can describe that information. The commonsense way in which to deal with this is through discussion, so that the level of disaggregation can be appropriate to the circumstances. I would like to conclude discussions on that before the bill reaches stage 3, so that we can reach an agreement that will make this amendment unnecessary.

14:30

Amendment 18 would set out in statute the monitoring information that the Executive should present to Parliament. Mr Adam suggested that the Executive should publish detailed monitoring information monthly. I do not see that as an issue to be addressed in the bill. However, Parliament is entitled to receive monitoring information. We have proposed that monitoring information be dealt with in the understanding on in-year changes to expenditure allocations. I will look forward to discussing proposals for refining those agreements with the convener once the committee has considered them fully.

Once finalised, the agreements will produce the information that Parliament needs. I believe that such information should be appropriate to the

circumstances and must be based on the estimates and accounts that Parliament expects, so that they are consistent. The issues that must be considered include style, frequency and format, as well as to whom and when such information is given.

We need to learn as we go along to ensure that we constantly improve and revise the monitoring information that is available. It would be inappropriate at this stage to prescribe in statute monthly monitoring information in the detail that is suggested. First, that is probably not achievable by April of next year, if we are realistic. Secondly, this committee and ministers need to agree what is best; we need to be prepared to review the situation constantly to ensure that Parliament can hold the Executive to account for the way in which money is spent and allocated, not just once a year, in the budget bill, but regularly throughout the year.

I am sorry that that was so detailed, convener, but the amendments are important.

Cathie Craigie: I accept what the minister has said, although I understand where Brian Adam is coming from. The committees wanted to get as much information as possible. The Public Finance and Accountability (Scotland) Bill will ensure far greater accountability and will give us far greater auditing powers than was ever possible for Westminster Governments. That should be welcomed.

As the minister said, we must learn as we go. We are a new Parliament and this is a new committee. We will get further if we can agree on things through the memorandums and understandings. I accept the minister's point about whether staff would be able to cope with the level of information that Brian has asked for, but I hope that the minister will discuss matters with you, convener, and other members of the committee, because to do our job properly—to scrutinise the work of all departments properly—we need to get as much information as we can.

Lewis Macdonald (Aberdeen Central) (Lab): Cathie Craigie has covered much of what I wanted to say. It is, however, worth supporting the distinction that the minister drew between what is put into legislation and what exists in agreements between Parliament and the Executive. Putting too much detail into legislation not only puts a constraint on ministers, but takes away some of the discretion and powers of the Parliament and its committees. It is important to get the dividing line right. On that basis, I support the minister's view on amendments 17 and 18.

Mr Nick Johnston (Mid Scotland and Fife) (Con): I am in general agreement with Lewis Macdonald and Cathie Craigie on this point, but I

am coming from a slightly different angle. The financial implications of asking for detailed monthly breakdowns would be prohibitive. The Parliament has been accused of wasting enough public money. Monthly breakdowns would give the general public yet another club with which to beat us over the head.

The Convener: If no other member wants to speak, I will ask Brian Adam to sum up.

Brian Adam: May I take it that I am allowed to comment on the minister's amendments as well? I can do it as part of my summing up.

The Convener: You may comment on the minister's amendments. The minister may want to respond.

Brian Adam: I have some sympathy for the minister's amendments, but I am a little concerned that in outlining his reasoning behind them he has not spelt out to us whether the accounts that will be produced will be standard accounts. I do not recall whether it was this committee or the Finance Committee—probably both—but members have requested that the format for accounts be standardised so that it is obvious to lay people what is in them. I will be interested to hear what the minister has to say when he winds up.

I was interested in the minister's response to both my amendments. It would be remiss of us not to try to put the minister on the spot, particularly in light of the fact that we do not have any firm agreements about how we will proceed.

I do not accept Mr Johnston's assertion that it would be expensive to present accounts monthly. It would be most unusual for major businesses, for example, not to look at their accounts monthly. Accounts ought to be updated regularly anyway. However, I accept the general thrust of some of my colleagues' arguments that are in sympathy with the minister and at this point—in anticipation of positive responses from the minister—I ask leave to withdraw both amendments.

The Convener: Before we come to that, does the minister wish to comment?

Mr McConnell: I am grateful for the withdrawal of those amendments. There will, clearly, be a standardised format for departmental accounts. I do not think that we can move towards a standardised form of accounts for all agencies and non-departmental public bodies, but it is my hope that, over time, we can set some standards. I would like to do that in consultation with this committee and take the committee's advice. I am sure that we can work positively to improve the accessibility of all financial information.

The Convener: Mr Adam wishes to withdraw his amendment. He can do so only by leave of the committee. Is it the committee's wish that

amendment 17 be withdrawn?

Amendment 17, by agreement, withdrawn.

Section 18 agreed to.

Amendment 18 not moved.

Section 19

AUDIT OF ACCOUNTS

The Convener: We now move on to amendment 4, with which we will discuss amendments 1 to 3, 45 to 48, and 34.

Brian Adam: The purpose of this amendment is to remove the part of the bill that allows auditing of a body to take place only if more than half of its income derives from public funds. I want it to be the case that if any funds are given to a body, the Auditor General may—I stress may—have access to the accounts of that body in order to account for the expenditure of public funds.

If any figure is in the bill—be it 50 per cent, 30 per cent or 20 per cent—the expenditure will not be publicly accounted for. I do not envisage the Auditor General exercising his right to access the accounts and auditing them whenever public funds are being expended, but the 50 per cent level is artificial and, if it were removed, access for the purpose of audit would be allowed but would not be mandatory.

I move amendment 4.

Mr Johnston: Amendments 45 to 48 concern the definition of "body". In informal briefings to the committee, it was suggested that

"more than half the income of the body or office-holder was received from public funds"

names a fairly arbitrary figure. The amendments would give substance to the point by inserting "15 per cent or £400,000" and "whichever is the greater".

Mr McConnell: Amendment 34 corrects an inadvertent omission in the definition of income "received from public funds" in section 21. As currently drafted, the definition would exclude funds paid by organisations that are audited by the Auditor General, such as Scottish Enterprise, and not by Scottish ministers. I hope that the committee will support the amendment.

My reading of amendment 4 is that it would permit the Auditor General to audit rather than have access to the accounts of any body that receives public funds. It is unnecessarily wide-ranging because the bill already allows the Auditor General to have access to the books and records of any body that is in receipt of public funds. When, for example, he is auditing the accounts of one of the Executive departments, any body that receives any funds from that department can be

required to hand over books and records to the Auditor General.

The purpose of amendment 4 is already covered in the bill. It would be wrong for the Auditor General to be able to duplicate the legitimate audit activities of all organisations that receive public funds. As drafted, the amendment could, for example, include farms that are incorporated bodies and companies that receive regional selective assistance. I do not think that that is the intention behind it. I assure Mr Adam that the bill will achieve what he is trying to achieve, which is access to information.

Amendments 1, 2, 3, 45, 46, 47 and 48 raise substantive issues. The figure of 50 per cent was not chosen out of thin air but because of the principle that it would be appropriate for the Auditor General to have the right to conduct value-for-money studies when the majority of funding for any body came from public funds. I recognise the committee's concern about that figure and I am happy to consider an Executive amendment at stage 3, following discussions with Mr Adam, Mr Johnston and other members, to try to secure the Parliament's agreement for an amendment that would allow us to include bodies that receive less than 50 per cent of their funding from public funds but for which there might be a legitimate public interest in a value-for-money study. We are already looking at the bodies that would be affected and I am happy to share that information with committee members and to try to reach agreement on an Executive amendment with all-party support at stage 3.

The Convener: We appreciate that.

Brian Adam: I am grateful to the minister for recognising our concerns and accept his offer of further discussions. I look forward to an Executive amendment.

The Convener: I will call Euan Robson before you sum up.

Euan Robson (Roxburgh and Berwickshire) (LD): I simply want to say that the proposal for an Executive amendment is sensible. The figure of 15 per cent or £400,000 may be too low, but a figure somewhere between there and 50 per cent will, I think, meet most people's expectations.

Mr Johnston: The amendment was lodged as a probing amendment and Mr McConnell's response has satisfied me. I would be happy to discuss the matter with him before stage 3.

The Convener: Do you wish to withdraw the amendment, Brian?

Brian Adam: I ask leave to withdraw the amendment.

The Convener: Does the committee agree to

the request to withdraw amendment 4?

Amendment 4, by agreement, withdrawn.

14:45

Section 19 agreed to.

Section 20 agreed to.

Section 21

ECONOMY, EFFICIENCY AND EFFECTIVENESS EXAMINATIONS

Amendments 1, 2, 45 to 48 and 3 not moved.

Mr McConnell: I move amendment 34.

Amendment 34 agreed to.

Mr McConnell: I move amendment 35.

The amendment has been prepared after consultation with the Scottish Parliamentary Corporate Body. The SPCB thinks that the role of the Scottish Commission for Public Audit should be limited to such issues as the funding and auditing of Audit Scotland. The bill as drafted contemplates a wider remit with the resulting possibility of overlap with the role of this committee. We have therefore deleted the commission's power to make proposals to the Auditor General for Scotland about his value-for-money programme, which should be a matter for the Parliament alone.

Amendment 35 agreed to.

Section 21, as amended, agreed to.

After Section 21

Brian Adam: I move amendment 19.

The purpose of amendment 19 is to allow at least an overview of the expenditure of a significant part of the Parliament's funds for local authorities. I recognise that local authorities are independent bodies with their own mandates. Nevertheless, a substantial part of their funding comes directly from the Executive. Parliament ought therefore to have a direct role, through the Audit Committee, in overseeing that expenditure.

I do not want the committee to consider the accounts of individual authorities, as that is a role for someone else, but the situation was highlighted recently by the great discrepancy between the funds offered for care of the elderly and the amount that was actually spent. Across the gamut of local authority responsibilities, this amendment would allow the Audit Committee, and hence Parliament, to examine the generality of local government expenditure while retaining the integrity and independence of local authorities and of the Accounts Commission.

The Convener: Do any other members wish to

contribute? If not, I call on the minister to respond.

Mr McConnell: This process of discussing and agreeing a bill has been a good one. As I hope has been obvious, I have tried to secure all-party agreement and agreement with members as we have gone along. I will continue to do so but I am strongly opposed to this amendment on a point of principle.

When Financial Issues Advisory Group looked at the arrangements for the new Parliament, it gave detailed consideration to the existing arrangements for the external audit of local government. It concluded that, in view of the status of local authorities as a separate, democratically accountable tier of government, the arrangements should not be changed.

The Accounts Commission is an independent body designed to sit between the two tiers of government, central and local, each of which has its own democratic mandate. I believe that this amendment would raise important constitutional issues, as local government is not directly answerable to this Parliament. It answers to its own electorate and the audit process, financial and value for money, must recognise that.

The Accounts Commission already consults widely on its programme of value-for-money studies. That will include relevant parliamentary committees, but I do not think that it is appropriate to write that into legislation. The Accounts Commission should not have to report directly to Parliament. It already publishes all its reports and, since devolution, it has sent its reports to members of the relevant parliamentary committees and to the Parliament's information centre. There is no reason to stop committees taking an interest in these reports and discussing the Accounts Commission's findings. For example, on care of the elderly, it would be possible for the Health and Community Care Committee of the Parliament or the Local Government Committee, the Finance Committee or the Audit Committee to examine where the public pounds are going in that area.

It would be entirely wrong for one of the first acts of the new Parliament, in our first full consideration of an Executive bill, to fundamentally alter the constitutional relationship between local government and central Government. We have a right to comment, at all times, on the activities of those that spend public money, but I do not believe that the audit reports of local government should be reported to the Parliament. I believe that that would be fundamentally wrong and I hope that the committee will not agree to this amendment.

Cathie Craigie: I am pleased that the minister has made such a strong statement on this. I am sorry, Brian, but I strongly oppose this amendment

as well. When the Scottish Parliament was created, it was promised that it would bring power closer to the people. If we introduced this amendment, it would be seen as taking power away from a local, democratically elected organisation. The people have the opportunity to elect or re-elect councillors when elections come round. There must be a dividing line.

FIAG consulted widely with professionals and with the public bodies involved and, as the minister indicated, the recommendation was that local government should be left the way that it is. We should accept the recommendation that the arrangements for local government should not be changed and leave that in the bill as we take it through Parliament.

Euan Robson: This amendment would compromise to an extent, perhaps unintentionally, the independence of the commission. The FIAG report stated on page 125:

"The independence of the Commission is emphasised by the fact that it does not receive a Government grant; its activities are funded by contributions made by audited bodies . . . The Commission is not a Crown body and its employees are not civil servants."

It is important that that independence remains and, to an extent, I feel that this amendment compromises that. I accept what the minister said about the importance of this process remaining at arm's length from the Parliament.

Paul Martin (Glasgow Springburn) (Lab): We already have a sophisticated system in place through the Accounts Commission. I would not like us to be seen as the big brother looking towards the local authorities. As the minister has explained, there is a comprehensive system in place. We should continue with that because it is working so well already. I oppose Brian Adam's amendment.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): We would compromise the independence of the Accounts Commission if we restricted it as this amendment suggests. I welcome the views that the minister has expressed today. We need to be careful that we do not take over the functions that are reserved for local government.

The Convener: I ask Brian Adam to sum up.

Brian Adam: I have listened carefully both to what the minister has said and to the views that other members of the committee have expressed. My intention was not to undermine the independence of local government. However, currently local government is accountable, in the last instance, to the minister for the moneys with which it is provided by the Parliament. I am concerned that the Parliament does not have any direct say in how those moneys are expended.

We are dealing with a very significant portion of this Parliament's finances—in the order of at least a third of overall expenditure, if not slightly more. In framing the amendment, I was very conscious, having come from a local authority background, of not wanting to take powers away from local government. However, I also wanted the Parliament to have some say in what happens in local authorities subsequent to the moneys being expended.

The minister is already considering exercising capping powers against local authorities, and rightly so. That is his prerogative, as the person responsible for overall finance. However, we, as the Parliament, have a duty to examine how the public pound has been spent. We need to find a mechanism that will protect the independence of the Accounts Commission and the special status of local government, while ensuring that account is given for how the money that the Executive allocates to local government has been spent. Parliament has a role there. I am quite willing to consider other ways of doing that, but it would be remiss of us to say that such a large proportion of our expenditure is not to be accounted for by the Parliament in any way.

The Convener: Thank you. Views have been clearly expressed. Do you wish to press the amendment, Mr Adam?

Brian Adam: Yes.

The Convener: The question is, that amendment 19 be agreed to. Is that agreed?

Members: No.

The Convener: There will be a division.

FOR

Brian Adam (North-East Scotland) (SNP)
Miss Annabel Goldie (West of Scotland) (Con)
Mr Nick Johnston (Mid Scotland and Fife) (Con)

AGAINST

Scott Barrie (Dunfermline West) (Lab)
Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
Margaret Jamieson (Kilmarnock and Loudoun) (Lab)
Lewis Macdonald (Aberdeen Central) (Lab)
Paul Martin (Glasgow Springburn) (Lab)
Euan Robson (Roxburgh and Berwickshire) (LD)

ABSTENTIONS

Mr Andrew Welsh (Angus) (SNP)

The Convener: The result of the division is as follows: For 3, Against 6, Abstentions 1.

Amendment 19 disagreed to.

Sections 22 and 23 agreed to.

Section 24

MODIFICATION OF ENACTMENTS

The Convener: I ask the minister to move

amendment 36, with which it will be convenient to take amendments 39, 49 and 40. Before he does so, I welcome Mr MacAskill, who has joined us for the debate on a later amendment.

Mr McConnell: I move amendment 36. I will also speak to amendments 39 and 40 and to amendment 49, in the name of Mr MacAskill.

Amendment 36 would grant ministers powers to make, by order, modifications to other legislation, prerogative instruments and other instruments or documents consequential on part 2 of the bill.

The reason for this amendment is to guard against the possibility that a further public body might be unearthed whose accounting and audit arrangements are contrary to the public audit model. Those arrangements might be set out in legislation or in a prerogative instrument, such as a royal charter, or in some other instrument or document, such as a trust deed or contract. This amendment would enable ministers to amend those arrangements to bring such a body into line in the same way in which the bodies listed in schedule 4 have been dealt with.

15:00

Amendments 39 and 40 ensure that, where any order makes textual amendments to primary legislation, the order is subject to affirmative resolution. I am sure that the committee will welcome those amendments.

Shall I speak to amendment 49 just now?

The Convener: Please leave that amendment until Mr MacAskill has spoken to it.

Mr McConnell: Certainly.

Mr Kenny MacAskill (Lothians) (SNP): By this amendment, we are seeking to ensure that commencement orders are laid before Parliament so that we, the Subordinate Legislation Committee, can consider and report on them. That is not unusual; it is what our counterparts at Westminster, the Joint Committee on Statutory Instruments, does. We do not consider policy, but we examine technical matters and find technical errors. We feel that it is appropriate that the Subordinate Legislation Committee should deal with such matters because errors do occur, as the JCSI would testify.

We note that the Executive agrees with the principle and agrees that there appears to be a deficiency in standing orders. To some extent—we discussed this this morning—we are working in tandem to remedy that. We think that this amendment is necessary to deal with this matter, as we do not feel that the Procedures Committee will deal with the amendments and changes to standing orders that are necessary in time.

Therefore, this bill would not be covered and there would be a difficulty, in that commencement orders could be laid and not come before Parliament.

We note the concern of the minister and the Executive that a precedent is being created. We understand where that worry is coming from, but it appears to us that the amendment will relate only to this matter. We hope that the Procedures Committee will resolve matters by making amendments to standing orders.

In summary, it is our view that this amendment is necessary to ensure that best practice is followed and that the Subordinate Legislation Committee can consider all matters, and this bill in particular. As I said, we do not have any rights over policy matters. We simply ensure that the criteria for drafting, terminology and vires are met.

Euan Robson: Just for clarification, does “we” mean the Subordinate Legislation Committee?

Mr MacAskill: Yes.

Mr McConnell: I want to be clear that the whole Executive supports Mr MacAskill’s position on the need to change standing orders so that commencement orders are properly laid. We want standing orders to provide for that as soon as possible. I know that discussions between the two committees that are involved and the business managers are on-going. There is no difficulty with the principle of this amendment appearing in the bill if it were necessary to make that happen. Rather than agreeing now to an amendment to this bill that might prove to be unnecessary if standing orders were amended, I would be happy to support the amendment at stage 3 if the matter were not resolved by then.

Is it possible for Mr MacAskill not to formally move the amendment today, but to accept my assurance that his amendment will have my support if other matters are not resolved to his satisfaction and that of the convener of this committee, and maybe of Mr Watson as well, before final votes on this bill are reached?

Mr MacAskill: I am happy to accept the minister’s position, which seems eminently sensible.

The Convener: If your amendment is not moved when we reach it, it simply falls.

Amendment 36 agreed to.

Section 24, as amended, agreed to.

Schedule 4

MODIFICATION OF ENACTMENTS RELATING TO PART 2

Mr McConnell: I move amendment 37.

Amendment 37 agreed to.

Mr McConnell: I move amendment 38.

Amendment 38 agreed to.

Schedule 4, as amended, agreed to.

Section 25

ORDERS AND DIRECTIONS

Mr McConnell: I move amendment 39.

Amendment 39 agreed to.

Amendment 49 not moved.

Mr McConnell: I move amendment 40.

Amendment 40 agreed to.

Section 25, as amended, agreed to.

Section 26 agreed to.

Section 27

INTERPRETATION

Mr McConnell: I move amendment 20.

The Convener: That is the briefest speech talking to an amendment that I have heard.

Mr McConnell: The amendment is self-explanatory. It is a technical change made in the Finance Committee. I hope that members of this committee will support it.

The Convener: The chair likes succinct speeches, but perhaps not quite so succinct.

Amendment 20 agreed to.

Section 27, as amended, agreed to.

Section 28 agreed to.

Title agreed to.

The Convener: We have completed stage 2 of the bill as set out in standing orders. I congratulate the committee and the minister on the smooth transaction of business.

If amendments have been made to the bill that substantially alter provisions conferring powers to make subordinate legislation, the bill, as amended, will need to be referred to the Subordinate Legislation Committee for consideration. They must report to Parliament on that.

Stage 3 is next, when a meeting of the Parliament will decide whether the bill is passed or rejected.

We will now conclude our business. I thank everybody who has contributed to the smooth transaction of today’s business.

Meeting closed at 15:07.

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